

# BARNES & THORNBURG

1313 Merchants Bank Building  
11 South Meridian Street  
Indianapolis, Indiana 46204  
(317) 638-1313

## PATENT APPLICATION

### *IN THE UNITED STATES PATENT AND TRADEMARK OFFICE*

*Group:* Unknown

} Certificate Under 37 CFR 1.10

*Attorney*

} Express Mail Label No.: EM343389952US

*Docket:* 3053-28781

} Date of Deposit: October 17, 1997

*Applicant:* Curtis L. Taylor

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deposited with the United States Postal Service's  
"Express Mail Post Office to Addressee" service under  
37 CFR 1.10 on the date indicated above and is  
addressed to the Assistant Commissioner for Patents,  
Washington, D.C. 20231

*Invention:* OXYGEN-FUEL BURNER WITH  
INTEGRAL STAGED OXYGEN  
SUPPLY

} Jill L. Werling  
Typed or Printed Name of Person Mailing Paper or Fee

*Serial No:* Unknown

}   
Signature of Person Mailing Paper or Fee

*Filed:* Herewith

}

*Examiner:* Unknown

}

#### Application To Reissue

U.S. Patent No. 5,458,483

Issued October 17, 1995

on U.S. Application Serial No. 163,424

Filed December 8, 1993

#### DECLARATION BY INVENTOR

Assistant Commissioner

for Patents

Washington, D.C. 20231

Sir:

I, Curtis L. Taylor, declare that I am a citizen of the United States of America;  
that I verily believe myself to be the original and first inventor of the invention described and  
claimed in U.S. Letters Patent No. 5,458,483 (hereinafter '483 PATENT) and in the foregoing  
specification and for which invention I solicit a reissue patent; that I do not know and do not  
believe that said invention was ever known or used in the United States of America before my  
invention thereof; that I disclosed and claimed in the '483 PATENT a burner assembly (See,

e.g., claim 1 in the '483 PATENT) comprising "a burner block . . . bypass means. . . an oxygen-supply housing including chamber means for receiving a supply of oxygen and a base wall . . . the base wall being formed to include first aperture means . . . and second aperture means. . . and means for discharging fuel into the flame chamber formed in the burner block, the discharging means including a nozzle extending through the chamber means and the first aperture means formed in the base wall to discharge fuel into the flame chamber"; that during the preparation and prosecution of the application that led to the '483 PATENT I believed that the claim covered structure illustrated in Figs. 2, 3A, 3B, 4, 5, 7, and 8 in the '483 PATENT; that subsequent to the issuance of the '483 PATENT I became aware of a potential infringement of the claims of the '483 PATENT; that in January 1997, in connection with reviewing that potential infringement, my attorneys reviewed the claims of the '483 PATENT; in July 1997, my attorneys carefully reviewed the specification and claims of the '483 PATENT and realized that it was not necessary to include claim limitations covering the nozzle and the "means plus function" language to define a patentable invention in claims for a burner assembly; that I have unsuccessfully sought to obtain the potentially infringing device; that I have considered the results of the evaluation of the specification and claims by my attorneys; and that accordingly, I now verily believe the '483 PATENT to be wholly or partly inoperative or invalid by reason of my claiming less than I had a right to claim in the '483 PATENT.

I request that I be permitted to amend the '483 PATENT and be granted a reissue patent; that errors rendering the '483 PATENT wholly or partly inoperative or invalid caused the claims of such patent to be of more narrow scope than necessary to distinguish over the prior art; that such errors arose because I and my patent attorneys did not appreciate the overly narrow character of the claims at the time I made the invention and prepared and

outlet opening, an oxygen conductor conduit configured to conduct oxygen along a route outside of the flame chamber to the outlet opening, and an oxygen-supply housing defining an oxygen chamber configured to receive a supply of oxygen and a base wall positioned to lie adjacent to the burner block. Claim 69 also requires that the base wall includes a first-stage aperture positioned to lie in alignment with the inlet opening and to pass oxygen from the oxygen chamber into the flame chamber and a second-stage aperture arranged to lie in spaced-apart relation to the first-stage aperture to pass oxygen from the oxygen chamber into the oxygen conductor conduit. In addition, claim 69 also requires that the internal diameter of the second-stage aperture is less than the internal diameter of the oxygen conductor conduit to regulate the flow of oxygen from the oxygen chamber through the oxygen conductor conduit and that a fuel-discharge nozzle is positioned to lie adjacent to the inlet opening and is configured to discharge fuel into the flame chamber formed in the burner block. Newly presented claim 69 eliminates details regarding the nozzle and “means plus function” language not needed to define patentability over the prior art. Newly presented claims 70-84 depend from claim 69 and recite in more detail features of the oxygen conductor conduit, the base wall, the oxygen-supply housing, and the fuel-discharge nozzle.

Claim 85 differs from patent claim 1 in that it eliminates “means for” language found throughout. Newly presented independent claim 85 instead recites structural details of a burner assembly that includes a burner block formed to include a flame chamber having an inlet opening and an outlet opening, an oxygen conductor conduit configured to conduct oxygen outside of the flame chamber to the outlet opening of the flame chamber, an oxygen-supply housing defining an oxygen chamber configured to receive a supply of oxygen and a base wall positioned to lie adjacent to the burner block. Claim 85 also requires that the base wall includes a first-stage aperture in alignment with the inlet opening to pass oxygen from the

oxygen chamber into the flame chamber and a second-stage aperture arranged to lie in spaced-apart relation to the first-stage aperture to pass oxygen from the oxygen chamber into the oxygen conductor conduit. In addition, claim 85 requires that a fuel-discharge nozzle extends through the oxygen chamber and the first-stage aperture to discharge fuel into the flame chamber. Newly presented claims 86-97 depend from claim 85 and recite in more detail features of the oxygen-supply housing, the burner block and recite a frame and a removable collar.

Newly presented independent claim 98 differs from patent claim 29 in that it eliminates “means for” language found throughout. Newly presented independent claim 98 instead recites structural details of a burner assembly that includes a burner block with a flame chamber having an inlet opening and an outlet opening, an oxygen conductor conduit configured to conduct oxygen outside of the flame chamber to the outlet opening of the flame chamber, a fuel-discharge nozzle positioned to lie in the inlet opening and configured to discharge fuel into the flame chamber of the burner block, and an oxygen-supply housing defining an oxygen chamber configured to receive a supply of oxygen and a base wall positioned to lie adjacent to the burner block. Claim 98 also requires that the base wall includes a first-stage aperture positioned to pass oxygen from the oxygen chamber into the flame chamber and a second-stage aperture positioned to pass oxygen from the oxygen chamber into the corresponding oxygen conductor conduit. In addition, claim 98 requires that the second-stage aperture defines a second-stage oxygen port with a first effective cross-sectional area and communicating oxygen from the oxygen chamber to the outlet opening of the flame chamber through the oxygen conductor conduit and that a flange is positioned to lie between the base wall and the burner block to extend about the fuel-discharge nozzle to fix the fuel-discharge nozzle in the inlet opening. Claim 98 further requires that the flange includes a

third-stage aperture for conducting oxygen discharged through the first-stage aperture into the flame chamber and that the third-stage aperture defines a first-stage oxygen port having a first-stage oxygen port having a second effective cross-sectional area that is greater than the first effective cross-sectional area and communicates oxygen from the oxygen chamber into the flame chamber. Claims 99-100 depend from claim 98 and recite in more detail features of the base wall and the flange.

Newly presented independent claim 101 differs from patent claim 40 in that it eliminates "means for" language found throughout. Newly presented independent claim 101 instead recites structural details of burner assembly comprising a burner block formed to include a flame chamber having an inlet opening and an outlet opening, a fuel-discharge nozzle positioned to lie in the inlet opening and configured to discharge fuel into the flame chamber formed in the burner block, a flange positioned to lie around the fuel-discharge nozzle to situate the fuel-discharge nozzle adjacent to the burner block at the inlet opening of the flame chamber so that a primary combustion zone is established in the flame chamber between the inlet and outlet openings and the flange is formed to include at least one oxygen-flow aperture therethrough, and an oxygen-supply housing including an oxygen chamber configured to receive a supply of oxygen and a base wall adjacent to the burner block. Claim 101 further requires that the base wall includes a first-stage aperture sized to supply oxygen to the flame chamber through the inlet opening so that the oxygen supplied by the first-stage aperture mixes with the fuel discharged by the fuel-discharge nozzle in a first-stage region inside the flame chamber to produce a combustible mixture that can be ignited in the primary combustion zone to define a flame having a root portion in the flame chamber and a tip portion outside the flame chamber. In addition, claim 101 requires that a partition is appended to the fuel-discharge nozzle, positioned to lie between the fuel-discharge nozzle and the flange, and

formed to include at least one oxygen-flow aperture therethrough and the partition is configured to meter the flow rate of oxygen from the oxygen chamber into the flame chamber through the inlet opening. Further, claim 101 requires that an oxygen conductor conduit is configured to conduct oxygen from the oxygen chamber into a downstream second-stage region containing a portion of the flame and lying outside the flame chamber to supplement oxygen supplied to the first-stage region inside the flame chamber by the first-stage aperture and at least one aperture is formed in the base wall and arranged to interconnect the oxygen chamber and the oxygen conductor conduit in fluid communication, the at least one aperture being sized to meter the flow rate of oxygen from the oxygen chamber into the oxygen conductor conduit so that the flow rate of oxygen passing to the downstream second-stage region outside the flame chamber through the oxygen conductor conduit is fixed in proportion to the flow rate of oxygen passing through the partition. Newly presented claims 102-109 depend from claim 101 and recite in more detail features of the oxygen conductor conduit and the second-stage aperture. The claims depending from claim 101 also recite a frame and features of the base wall, the fuel-discharge nozzle, and the oxygen-supply housing.

Newly presented independent claim 110 differs from patent claim 54 in that it omits the "means for" language throughout. Newly presented claim 110 specifically recites a burner assembly that includes a burner block that includes a flame chamber having an inlet opening and an outlet opening, an oxygen conductor conduit configured to conduct oxygen outside of the flame chamber to the outlet opening of the flame chamber, an oxygen-supply housing that includes a hollow shell that defines an oxygen chamber configured to receive a supply of oxygen and includes an aperture therein, a frame configured to couple the oxygen-supply housing to the burner block, and a fuel nozzle module that has a nozzle body and a discharge tip. In addition, claim 110 requires that the fuel nozzle module extends through the

aperture formed in the hollow shell to aim the discharge tip of the fuel nozzle module into the inlet opening of the flame chamber.

I acknowledge my duty to disclose information of which I am aware which is material to patentability as defined in Title 37, Code of Federal Regulations §1.56; and I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application for reissue or any patent issuing thereon.

I hereby appoint William R. Coffey, Reg. No. 24023; Jerry E. Hyland, Reg. No. 20904; Richard D. Conard, Reg. No. 27321; Steven R. Lammert, Reg. No. 27653; Richard A. Rezek, Reg. No. 30796; Timothy E. Niednagel, Reg. No. 33266; John P. Breen, Reg. No. 38833; Jill L. Werling, Reg. No. 39874; Nancy J. Harrison, Reg. No. 27083; R. Trevor Carter, Reg. No. 40549; Perry Palan, Reg. No. 26213; Mark M. Newman, Reg. No. 31472; Bobby B. Gillenwater, Reg. No. 31105; Paul B. Hunt, Reg. No. 37154; Michael S. Gzybowski, Reg. No. 32816; and Robert D. Null, Reg. No. 40746, my attorneys, with full power of substitution and revocation, to prosecute this application, and to transact all business

in the Patent and Trademark Office connected therewith; and I specify that communications regarding this application to reissue be directed to:

Richard A. Rezek  
BARNES & THORNBURG  
1313 Merchants Bank Building  
11 S. Meridian Street  
Indianapolis, Indiana 46204

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Date

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Curtis L. Taylor

**ASSENT BY ASSIGNEE**

The undersigned assignee of the entire interest in the above-mentioned Letters Patent hereby assents to the accompanying DECLARATION BY INVENTORS.

**MAXON CORPORATION**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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} Jill L. Werling

} Typed or Printed Name of Person Mailing Paper or Fee

}   
Signature of Person Mailing Paper or Fee

Application To Reissue  
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Filed December 8, 1993

### ASSOCIATE POWER OF ATTORNEY

Assistant Commissioner

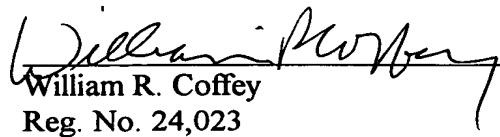
for Patents

Washington, D.C. 20231

Sir:

I, William R. Coffey, Registration No. 24,023, hereby appoint Jill L. Werling,  
Registration No. 39,874, as an associate attorney in the above-identified application, with  
power to prosecute this application, to make alterations and amendments therein, and to  
transact business in the Patent and Trademark Office connected therewith.

Respectfully submitted,  
BARNES & THORNBURG

  
William R. Coffey  
Reg. No. 24,023

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DMS:jlw 17049